



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XR75

Essential Fish Habitat Components of Fishery Management Plans; 5-year Review

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Supplemental notice of intent (NOI) to prepare an environmental impact statement (EIS).

SUMMARY: The New England Fishery Management Council is in the process of preparing an Essential Fish Habitat Omnibus Amendment to the fishery management plans for Northeast multispecies, Atlantic sea scallop, monkfish, Atlantic herring, skates, Atlantic salmon, and Atlantic deep-sea red crab. The Council is seeking comments about removing the range of alternatives pertaining to deep-sea corals from this action and developing them as a separate omnibus amendment.

DATES: Written comments must be received on or before 5 p.m. e.s.t., [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: CoralNOI@noaa.gov
- Mail: Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

· Fax: (978) 465-3116.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council's (Council) Essential Fish Habitat (EFH) Omnibus Amendment 2 (OA2) currently includes: (1) review and update of EFH designations, (2) review and update of Habitat Area of Particular Concern (HAPC) designations, (3) other EFH requirements of fishery management plans including prey species information and non-fishing impacts, (4) alternatives to minimize, to the extent practicable, the adverse effects of Council-managed fisheries on EFH, and (5) alternatives to minimize fishing effects on deep-sea corals developed under the authority granted in the fishery management plan (FMP) discretionary provisions (section 303(b)) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Alternatives developed under item 4 will include options related to the groundfish closed areas as well as options to designate spatially-overlapping dedicated habitat research areas. The Council added review of the groundfish closed areas to OA2 in April 2011 (76 FR 35408). Approval of a range of adverse effects minimization, groundfish area, and research area alternatives (item 3) has not yet occurred.

The purpose of this notification is to alert and seek comment from the public about Council's consideration of splitting the deep-sea coral discretionary provision alternatives from OA2, and including them in a separate omnibus amendment.

The Magnuson-Stevens Act section 303(b) discretionary authority gives Councils broad latitude to develop measures to minimize the impacts of fishing on deep-sea corals. Because

most of the deep-sea corals occur beyond the limits of EFH, the Council is considering conservation measures under these discretionary provisions of the Magnuson-Stevens Act. This authority was added when the Magnuson-Stevens Act was reauthorized in 2007. The Council first directed its Habitat Plan Development Team to evaluate information related to deep-sea corals and develop alternatives for their protection in February 2008. The coral alternatives were folded into OA2 as a matter of convenience, because it was an ongoing habitat-related action. A range of coral alternatives were approved by the Council for further development and analysis in April 2012.

The following considerations were discussed by the Council and its Habitat Committee during recent meetings, and may be helpful to members of the public who wish to submit comments.

The range of coral alternatives developed by NEFMC includes broad zones beginning at 300, 400, or 500 m on the continental slope and extending to the Exclusive Economic Zone boundary, and discrete zones encompassing submarine canyons on the continental slope off Georges Bank and Southern New England, four seamounts within the EEZ, and two locations in the Gulf of Maine. The range of possible management measures for these zones includes mobile bottom-tending gear restrictions or bottom-tending gear restrictions, with exceptions for deep-sea red crab traps, special access programs, and exploratory fishing programs. The Council anticipates allowing these management measures to be revised via framework action. More detailed information can be found on the Council's Habitat webpage (<http://www.nefmc.org/habitat/index.html>)

The fishing restriction alternatives as currently drafted are gear-based, not fishery or

FMP based, and would apply to vessels operating in fisheries managed by both the New England and Mid-Atlantic Fishery Management Councils. The Mid-Atlantic Council initiated their own action related to deep-sea corals at their April 2012 meeting. Assuming the New England Council implements coral-related measures north of the inter-council boundary, and Mid-Atlantic Council does so south of the boundary, consistency in management approaches will be critically important, because fisheries managed by both Councils operate near or within coral habitats and are prosecuted both sides of the boundary line.

To facilitate inter-council coordination, the Councils are in the process of drafting a memorandum of understanding between the New England, Mid-Atlantic, and South Atlantic Councils. This document will identify areas of consensus and common strategy related to conservation of corals and mitigation of the negative impacts of fishery/coral interactions. At their June meeting, the New England Council reiterated that this is a priority issue for the short term. If additional development time is necessary to ensure that management actions related to deep sea corals are consistent throughout the region, these delays could impact completion of OA2 if the coral measures remain in the same action. Conversely, there have been delays associated with groundfish-related aspects of alternatives development for OA2 (item 3 above), and it might be possible to move the coral alternatives forward first if those delays continue. Overall, placing the two sets of actions on separate tracks could allow increased flexibility as the Council re-evaluates its priorities over time.

Separate actions for corals and EFH could be clearer and easier to understand than a single combined action, since each one would be focused towards a narrower set of goals and objectives. However, there would be overlaps in terms of some of the content of the two

separate amendments, especially background information for the slope and seamount areas (at a minimum, the EFH action will designate EFH along the slope and on the seamounts, so these areas will need to be discussed in that amendment even if the coral alternatives are removed). If the actions are being developed and implemented in parallel, which seems most likely, it might be difficult to incorporate this material by reference.

Also, there is a linkage between the coral discretionary provision alternatives and the other alternatives in the EFH amendment because portions of the submarine canyons and seamounts harboring deep-sea corals and other associated ecosystem components were recommended as HAPCs during Phase 1 of OA2 development (June 2007). Because HAPCs are a subset of designated EFH, HAPC designations would remain as part of the EFH Omnibus Amendment, and would not be split off into a separate coral omnibus amendment, even though some of the HAPCs were developed with corals in mind. Each of the HAPC alternatives (and EFH alternatives) developed during Phase 1 are pending implementation and subject to change until final action is taken by the Council on Omnibus EFH Amendment 2. Thus, there remains an opportunity to rectify any inconsistencies between the coral zones developed under the discretionary authority and the HAPCs developed under the EFH authority, bearing in mind that objectives for the two sets of areas may be different. A comparison of the two sets of areas will be undertaken whether they are developed via one action or two separate actions.

It is possible that some of the impacts analyses of both the coral and adverse effects/groundfish would be streamlined if coral alternatives and adverse effects/groundfish alternatives continue to be developed in a single amendment, because restrictions in one area could increase fishing activity in other areas. However, as there are few spatial overlaps

between the coral zone alternatives and the adverse effects minimization areas as currently drafted, and different fisheries are associated with both sets of areas, this may not be a major issue. This could be a more important consideration for the two coral areas proposed in the Gulf of Maine near Mt Desert Rock and in western Jordan Basin. With this possible exception, splitting could simplify the analysis required because the combined effect of the two sets of alternatives would be limited to the cumulative effects analyses in each of the amendment documents.

The Council is requesting comments on: splitting the deep-sea coral discretionary provision alternatives out of the EFH action and into a separate amendment, the range of deep-sea coral alternatives themselves, and coordination and consultation with the other Atlantic coast Councils, particularly the Mid-Atlantic Council.

Authority: 16 U.S.C. 1801 et seq.

Dated: July 24, 2012.

James P. Burgess,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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